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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,837	12/01/2003	Tony Reid	017622-000130US	3216
20350 7590 10/30/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER THANH, QUANG D	
			ART UNIT 3771	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/725,837

Applicant(s)

REID, TONY

Examiner

Quang D. Thanh

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is responsive to the amendment filed on 8/23/07. As directed by the amendment: claims 1 and 5 have been amended, no claims has been cancelled nor added. Thus, claims 1-10 are presently pending in this application.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (814,795) in view of Deasy, Jr. (5,171,211)

3. Re claims 1, 5 and 10, Myers discloses a system for applying pressure ("compressive covering" disclosed on line 9) to a body limb, said system comprising: a first innermost therapeutic pressure sleeve 1 (TPS) comprising a cylindrical body open at both ends (fig. 1), having a foam lining with ridges 3 formed over an inner surface, and being configured to be slid over the full length of the limb (figs. 1 and 3) and to apply an inward pressure onto the limb; a second sleeve 4 comprising a cylindrical body open at both ends (fig. 1) and configured to be slid over the first sleeve and to apply additional inward pressure onto the limb; except for the second sleeve having the same length as the first sleeve for applying additional inward pressure along the full length of the limb. However, Deasy discloses a system for applying pressure to a body limb comprising a first sleeve 18 configured to be slid over an arm from the shoulder to the wrist (fig. 7) and to apply an inward pressure onto the limb; a second sleeve 46

configured to be slid over substantially the entire length of the first sleeve (best seen in fig. 7) and to apply additional inward pressure along the length of the limb (col. 4, lines 35-45). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Myer's second sleeve to have a sufficient length so that it can be configured to be slid substantially over the entire length of the first sleeve, as taught and suggested by Deasy, for the purpose of increasing the effectiveness of the compression therapy in the treatment of edema and providing improved the user's stamina (Deasy, col. 4, lines 60-66).

With respect to the limitation "the second sleeve being configured to be slid wholly over the entire length of the first sleeve and having the same length as the first sleeve", since Deasy already teaches that the second sleeve is configured to be slid over most of the length of the first sleeve (best seen in fig. 7), therefore it would have been an obvious matter of design choice to modify the size of the second sleeve of Myers to be the same length as the first sleeve, for the purpose of covering the limb completely with both sleeves and thus enhancing the effectiveness of the compression therapy, and since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Furthermore, figs. 1, 2A and 2B of the present application appear to illustrate the inner sleeve 18 and outer thin fabric compression sleeve 40 having the same length, with the outer sleeve being slid over the entire length of the inner sleeve. Fig. 6, in contrast, illustrates a different embodiment of the outer sleeve wherein a shortened sleeve 40a, which is identical in construction to sleeve 40 but of a shorter length than sleeve 18, can be used with sleeve 18 (present specification, p. 14). The present

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specification further discloses at page 14, that "a plurality of sleeves 40a, (which can be of various lengths equal or shorter than sleeve 18), can be applied one over another at various locations on sleeve 18." Therefore, absent a teaching as to criticality that the second sleeve being configured to be slid **wholly** over the entire length of the first sleeve, this particular arrangement is deemed to have been known by those skilled in the art since the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular arrangement. *In re Kuhle*, 526 F.2d 553,555,188 USPQ 7, 9 (CCPA 1975).

4. Re claims 2 and 6-7, Myers discloses a third sleeve 4 ("4 represents a series of outer encircling bands" as disclosed on lines 42-46) configured to be slid over the second sleeve and to apply additional inward pressure onto said limb (fig. 1 shows an inner sleeve 1 and two outer sleeves 4), except for the first sleeve having a low coefficient of friction. However, Deasy teaches that the sleeve may be made of flexible relative heavy and strong elastic material (col. 3, lines 30-40), and therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, to select a flexible material that also has a low friction characteristic to assist in removing the sleeve, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

5. Re claims 4 and 9, Deasy teaches that "each component part or portion of the garment is made of elastic material and is sized so as to be compressive on the body of the user" (col. 3, lines 46-48) for the purpose of reducing the symptoms of edema (col. 4, lines 65-66), and therefore depending on the size of the user and the limb the device

is placed on, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to configure the Myers' sleeve such that it would be capable of providing a wide range of radially inward pressure, including slight pressure or greater pressure in the range of 5 mmHg to 30mmHg.

6. Re claims 3 and 8, Myers' second and third sleeves 4 appear to be thin bands (fig. 1) and therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, to select a thin flexible fabric material to make these outer sleeves, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

#### ***Response to Arguments***

7. Applicant's arguments filed on 8/23/07 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang D. Thanh/

Quang D. Thanh,  
Primary Examiner - Art Unit 3771  
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